IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30-08-2007

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.27819 of 2007
and
M.P.No.1 of 2007

Castrol India Ltd.,
Rayala Towers,
V Floor, 781-785 Anna Salai,
Chennai-600 002. .. Petitioner

Versus

1.The State of Tamil Nadu
Rep by its Secretary,
Commercial Tax Department,
Fort St. George,
Chennai-600 009.

2.The Appellate Assistant Commissioner (CT) IV
6th Floor, Kurlagam Annexe, 6th Floor,
Chenai-600 108.

3.The Commercial Tax Officer,
Anna Salai-III Assessment Circle,
Sire Mansion 1st floor No.621 Anna Salai
Chennai-600 006. .. Respondents

Writ Petition has been preferred under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the second respondent to consider and dispose the petitioner's appeal on merits pending before the second respondent against the order of Assessment dated 30.4.2007 passed by the 3rd Respondent as well as the stay petition bearing No.77/2007 on the file of 2nd Respondent without insisting onthe pre deposit of any amounts by the petitioner.

For Petitioner : Mr. Aravind P. Datar Sr Counsel
for Mr.S.Raghunathan

For Respondents : Mr.R.Mahadevan
Additional Government Pleader

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ORDER

Mr.R.Mahadevan, learned Additional Government Advocate takes notice for the respondents.

2.With the consent of the learned counsels appearing for the parties concerned, the writ petition itself is taken up for final disposal.

3. Heard Mr.S.Raghunathan learned counsel appearing for the petitioner as well as Mr.R.Mahadevan, Additional Government Pleader for Tax for the respondents.

4.It is submitted that the petitioner is engaged inter alia in the business of manufacture and sale of lubricating oils and greases. The petitioner effects stock transfers of its products to their various branches situated outside the State of Tamil Nadu and avails of an exemption from the payment of tax on such stock transfer. The petitioner also effects inter state sales of their products to various customers outside the State of Tamil Nadu against "C" Forms and against credit notes.

5. For the assessment year 1995-96 the petitioner has declared the turnover on stock transfer at Rs.69,36,08,017/- and the turnover on inter-state sales at Rs.9,47,36,584/- and a sum of Rs.14,73,551/- towards credit notes had been issued to their customers. The petitioner thus valued its total turnover at Rs.78,98,17,952/-. The petitioner claimed a total exemption from payment of tax both on the stock transfer of Rs.69,36,08,017/- and also on the value of sales effected against credit notes, amounting to Rs.14,73,351/-. As regards the inter state sales, the petitioner had claimed assessment at the concessional rate of 4%. The Commercial Tax Officer, Triplicane - II Assessment Circle, had issued a pre-assessment notice prior to checking of accounts and other documentary evidences proposing to reject the petitioner's claim.

6.The Commercial Tax Officer, Triplicane - II Assessment Circle, by her order, dated 8.4.2002, in CST/731-D/1995-96 had rejected the claim of the petitioner and assessed the petitioner's total taxable turnover under The Central Sales Tax Act, 1956, for the assessment year 1995-96, as Rs.78,86,82,262.00.

7. Aggrieved by the said order, the petitioner had filed an appeal in A.P.No.CST/39/2002 before the second respondent. The second respondent by his order, dated 19.7.2002, had set aside the order passed by the Commercial Tax Officer, Triplicane - II Assessment Circle and remanded the matter for reassessment, after observing that the Commercial Tax Officer, Triplicane - II

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Assessment Circle, had not provided a real and fair opportunity to the petitioner to object to the proposed assessment. Accordingly, the Commercial Tax Officer, Triplicane -II Assessment Circle, had granted a fresh hearing to the petitioner, on 27.7.2004. Inspite of the petitioner producing all the necessary records in respect of his claims, the third respondent by an order in CST/731/D/95-96, dated 30.4.2007, had disallowed the petitioner's claim.

8. Aggrieved by the said order, the petitioner has filed an appeal in Appeal bearing No.20/2007, before the second respondent. The petitioner also filed a petition seeking stay of recovery of the amount said to be due from the petitioner.

9.The limited prayer in this writ petition is for a direction from this Court to the second respondent to consider and dispose of the appeal in Appeal bearing No.20/2007 within a specific time.

10. The learned counsel for the respondents has no objection for such an order being passed by this Court.

11. In such circumstances, without going into the merits of the case, the second respondent is directed to consider and dispose of the appeal filed by the petitioner in Appeal bearing No.20 of 2007 on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

12.With the above direction, this writ petition is disposed of. No costs. Connected MP.No.1 of 2007 is closed.

ssv

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government
State of Tamil Nadu
Commercial Tax Department,
Fort St. George,
Chennai-600 009.

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2.The Appellate Assistant Commissioner (CT) IV
6th Floor, Kurlagam Annexex, 6th Floor,
Chennai-600 108.

3.The Commercial Tax Officer,
Anna Salai-III Assessment Circle,
Sire Mansion 1st floor No.621 Anna Salai
Chennai-600 006.

+ 1 cc to Special Government Pleader (Taxes) SR No. 54510

+ 1 cc to Mr. S. Raghunathan, Advocate SR No. 54136

W.P.No.27819 of 2007
and
M.P.No.1 of 2007

TEJ(CO)
SR/11.10.2007

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